

RFA 10 of 1996

30.12.2009

Present: Shri Sanjeev Kumar, Advocate vice Shri Bimal Gupta, Advocate, for the appellant.
Shri Diwan Singh Negi, Advocate vice Shri K.D. Sood, & Shri Ajay Kumar Dhiman, Advocates, for the respondents.

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Order dated 18.5.2009 has not been complied with. The legal representatives of deceased respondent No.4 Smt. Chando, daughter of Khem Chand alias Khem Singh, wife of Shri Babu Ram, resident of village Nawada, Tehsil Paonta, District Sirmour, who was defendant No. 4 in the suit before the learned trial Court and also respondent No. 4 in appeal preferred by the plaintiff-appellant before the learned District Judge, have not been brought on record of the case. The order dated 18.5.2009 is explicit and clear that in case the legal representatives of the deceased are not brought on record of the case, the legal consequences ensuing therefrom shall be considered at the time of final hearing of the appeal.

Since the deceased was actively contesting the suit instituted by the plaintiff and also the appeal which was preferred before the learned District Judge, she is a necessary party to the proceedings. In these circumstances, it is but natural that her legal representatives be brought on record in order to avoid conflicting decrees being passed. This has not been done. This appeal is accordingly dismissed for non-prosecution. All miscellaneous applications are disposed of. All interim orders are vacated.

December 30, 2009
(ms)

(Dev Darshan Sud)
Judge.